



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 8, 2014

Mr. W. Montgomery Meitler  
Senior Counsel  
Office of Legal Services  
Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701-1494

OR2014-15751

Dear Mr. Meitler:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 535424 (TEA PIR# 22288).

The Texas Education Agency (the "agency") received a request for information pertaining to the performance level designation for the Performance-Based Monitoring Analysis System for special education representation from 2004 through 2013. You state some information will be released to the requestor. You claim the submitted information is excepted from disclosure under section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup> We have also received and considered comments submitted by the requestor. *See Gov't Code* § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.116 of the Government Code provides as follows:

- (a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 61.003, Education Code, a county, a municipality, a school district, a hospital district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from [required public disclosure]. If information in an audit working paper is also maintained in another record, that other record is not excepted from [public disclosure] by this section.

(b) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, the bylaws adopted by or other action of the governing board of a hospital district, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) intra-agency and interagency communications; and

(B) drafts of the audit report or portions of those drafts.

Gov't Code § 552.116(a), (b)(1)-(2). You state the submitted information consists of audit working papers that were prepared or are maintained by the agency's Division of School Improvement and Support in conjunction with pending audits. You inform us these audits were conducted under the authority granted to the agency by section 7.021(b)(1) of the Education Code. *See* Educ. Code § 7.021(b)(1) (agency shall administer and monitor compliance with education programs). Additionally, you explain subsections 7.028(a)(1) and 7.028(a)(3) of the Education Code authorize the agency to monitor compliance with federal law and regulations and data integrity for purposes of chapter 39 of the Education Code. *See id.* § 7.028(a)(1), (a)(3). Section 39.106 authorizes the Commissioner of Education to assign a campus intervention team to conduct targeted on-site needs assessments, recommend appropriate actions, and assist in the development of a targeted improvement plan. *See id.* § 39.106 (defining scope and duties of a campus intervention team). Based on your representations and our review, we agree the submitted information consists of audit working papers for purposes of section 552.116 of the Government Code. Accordingly, the agency may withhold the submitted information under section 552.116 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lauren Dahlstein  
Assistant Attorney General  
Open Records Division

LMD/som

Ref: ID# 535424

Enc. Submitted documents

c: Requestor  
(w/o enclosures)